

Coastal Zone Act

The Delaware Coastal Zone Act (CZA) has been extremely successful in preserving the natural conditions along the approximately 4-mile wide area bordering the state's shoreline, especially north of Lewes to New Castle. Since Gov. Russell Peterson signed the Act into law in June 1971, no new heavy industrial plants have been erected in this environmentally sensitive coastal area used mainly for outdoor recreation and resort communities. Yet without the CZA, it could have been a different story. Nonconforming heavy industry uses are slowly disappearing due to changing business climates and fate. The Fisher fish plant in Lewes, the Stouffer Chemical plant, Abex, Amoco Refinery in New Castle County, and an oil terminal near Milford have all closed for various reasons. The following overview highlights significant events that shaped the CZA program.

Early 1970: Gov. Russell Peterson appoints a Task Force on Marine and Coastal Affairs to advise the governor on a proper course of action to protect the state's interest in its coastal resources, especially regarding industrialization of the coastal area.

February, 1971: The task force

recommends in a preliminary report that industries compatible with high environmental quality standards be encouraged, but that no further incompatible heavy industries be allowed. The task force also recommends prohibition of a deep-water port and emphasizes the coastal area's recreational value.

Spring, 1971: Gov. Peterson has legislation (H.B. 300) introduced in the General Assembly to implement the task force's findings.

June 28, 1971: Gov. Peterson signs the Coastal Zone Act (Title 7, Chapter 70, Del. Code) into law. The State Office of Management, Budget and Planning is the administering agency and the State Planner is the Act's official administrator.

July 23, 1971: Delaware Terminal Company proposes the first project, consisting of a land purchase near Claymont for a new oil transfer dock and tank farm, but eventually chooses not to proceed.

Dec. 17, 1971: First CZA victory – Delaware's State Planner rules that a proposed monobuoy for supertankers 26 miles east of Rehoboth to transfer crude oil through the zone on a sea-floor pipeline to a proposed

Delaware's Coastline at Prime Hook National Wildlife Refuge



tank farm near Rehoboth, is a prohibited offshore bulk product transfer facility.

Nov. 1, 1981: Gov. Pete DuPont terminates the Office of Management, Budget and Planning and amends the CZA to move it to DNREC with the Department Secretary as the official administrator.

1985-1987: Norfolk Southern and the U. S. Department of Commerce fight the legality of the CZA. Norfolk Southern had received DNREC approval to transfer coal between ships in the Delaware Bay. The Secretary's decision was appealed to the state Coastal Zone Industrial Control Board, which, after a public hearing, voted to overturn the decision. The company challenged the decision in state and federal courts. The Department of Commerce sided with Norfolk Southern, claiming that the coal transfer prohibition interfered with interstate commerce. Eventually, the state prevailed and the company discontinued the legal fight.

July 10, 1992: The CZA is amended to clarify that pre-existing heavy industry uses in operation on June 28, 1971, can expand or extend their operations by acquiring a CZA permit, just as any light manufacturing plant can expand.

March 19, 1998: A Memorandum of Understanding laying out the concepts for formal regulations to support the CZA is signed March 19, 1998 by all business representatives and environmental advocates of Gov. Tom Carper's Coastal Zone Act Regulatory Advisory Committee.

May 1999: The "Regulations Governing Delaware's Coastal Zone" become effective. The

regulations have a win-win concept – business interests win the right to expand and the environment wins by receiving a net improvement. Any new environmental damage must be more than offset by an "offset project" that makes up for an applicant's additional pollution. All CZA permits are now pro-environment. Several lawsuits are filed by local governments against Section F that requires sewage treatment plants to acquire permits for major modifications. A 2001 agreement among all parties drops this requirement.

June, 1999: The General Assembly passes House Bill 330, which defines "incinerator" as a prohibited use in the coastal zone. No waste-to-electric power plants are allowed in the zone along with any medical waste incinerators.

Oct. 16, 2000: The first major CZA permit issued under the regulations is granted to Conectiv Energy for expanding its electric generation capacity by 550 megawatts and lowering its net air emissions by many tons of NO_x (nitrogen oxides) and SO₂ (sulfur dioxide) per year. The permit illustrates the win-win concept envisioned in the regulations.

"Here is what we said when industrialization threatened the Delaware Coastal Zone, 'We have faced the challenge and made a choice. If uncontrolled industrial growth means great loss of our natural resources, then the price is too high and we don't want it.'" - Governor Peterson

"The waters of the Delaware Bay and Estuary are the lifeblood of our community, nurturing all its living resources. To keep these waters clean and plentiful calls for eternal vigilance and a healthy respect for future generations. It is human activity that most threatens these waters – ever more people using ever more resources. Some restraint is necessary."

*- Governor
Russell Peterson*

